

Mental Health Services Act Supportive Housing Licensing Guidelines

A resource tool for the MHSA Housing Program Application

These guidelines were developed by the Department of Mental Health (DMH) and the Corporation for Supportive Housing (CSH) as part of the implementation of the Supportive Housing Initiative Act (SHIA) Program in 2001. These guidelines have been updated by CSH and subsequently used in trainings for the AB 2034 projects.

The guidelines should provide an understanding of current Community Care Licensing requirements as they relate to the provision of supportive services in housing settings.

Supportive Housing Licensing Guidelines May 2005 Update

Most supportive housing projects are exempt from Community Care Licensing requirements. Current law (California Health & Safety Code Section 1504.5) provides that Community Care Licensing requirements do not apply to independent living arrangements or supportive housing for individuals with disabilities who are receiving community living support services, as defined in the law.

Supportive housing is defined as rental housing that has all of the following characteristics:

- It is affordable to people with disabilities
- It is independent housing in which each tenant meets all of the following conditions:
 - Holds a lease or rental agreement in his or her own name and is responsible for paying his or her own rent
 - Has his or her own room or apartment and is individually responsible for arranging any shared tenancy
 - It is permanent, wherein each tenant may stay as long as he or she pays his or her share of rent and complies with the terms of his or her lease
 - It is tenancy housing under which supportive housing providers are required to comply with applicable state and federal laws governing landlord-tenant relationship
 - Participation in services or any particular type of service is not required as a condition of tenancy

Community living support services are voluntary and chosen by persons with disabilities in accordance with their preferences and goals for independent living. These services may include but are not limited to, any of the following:

- Supports that are designed to develop and improve independent living and problem solving skills
- Education and training in meal planning and shopping, budgeting and managing finances, medication self-management, transportation, vocational and educational development, and the appropriate use of community resources and leisure activities
- Assistance with arrangements to meet the individual's basic needs such as financial benefits, food, clothing, household goods, and housing, and locating and scheduling for appropriate medical, dental, and vision benefits and care

Some supportive housing projects require more scrutiny and may be subject to Community Care Licensing requirements.

It is important to note that in order to determine whether a project is subject to Community Care Licensing, it is usually necessary to examine **ALL** of the following: the tenants who reside in the project, the project's ownership and building, the services which are provided in conjunction with the housing, and the relationships among housing provider, service provider(s), and residents. Therefore, in reviewing these guidelines it is necessary to look at all of the characteristics of any project before determining whether the project is likely or unlikely to require community care licensing. **In general, if the same organization is both**

the operator of the housing and the provider of on-site services in a supportive housing project, it will be critical to closely examine both the nature of the services that are being provided and the ability of tenants to choose to access services on-site or in the community.

These guidelines are intended to provide general guidance to local governments, non-profit agencies, and other potential project sponsors or partners in the design and implementation of supportive housing projects. These guidelines do not constitute and are not a substitute for legal counsel, nor do they confirm any government agency's interpretation of its laws when presented with a specific set of facts. Readers should consult legal counsel, Community Care Licensing staff, and other agencies involved with a particular project, for specific issues of concern.

Characteristics of supportive housing projects	Most likely to require Community Care Licensing	Likely to require additional scrutiny of specific project and/or clarification of current CCL policy or law	Community Care Licensing is probably <u>not</u> required
<p>Tenants</p>	<p>Residents “demonstrate the need for care and supervision” <i>even if care and supervision are not provided</i> (including an “unmet need for care and supervision”)</p> <p>Tenants are “placed” in housing as part of a treatment strategy, including a “step-down” from a higher level of care</p>	<p>Tenant’s capacity to care for self has deteriorated but tenant has been unwilling or unable to move to another residential setting with higher level of services.</p> <p>Some tenants have Conservator.</p> <p>Some tenants have very significant needs for care and supervision and are <i>inconsistently</i> receiving those services in the community.</p> <p>Tenants needs for care and supervision fluctuate over time because of chronic, relapsing health conditions – at times tenants are fully capable of independent living but at other times symptoms interfere with self care.</p>	<p>All tenants are competent to select their own housing and to enter into a legally binding lease agreement</p> <p>Tenants are capable of exercising choice about what services to access and where (on-site or off-site)</p> <p>Tenants are referred to housing – often as a solution to homelessness</p> <p>Some tenants have very significant needs for care and supervision and are receiving appropriate services <i>consistently</i> from service provider(s) not affiliated with housing provider</p>

Characteristics of supportive housing projects	Most likely to require community care licensing	Likely to require additional scrutiny of specific project and/or clarification of current CCL policy or law	Community Care Licensing is probably <u>not</u> required
Housing Owner / Building	<p>Building serves only people with disabilities who are in need of care and supervision</p>	<p>Tenants do not have “normal” access to / control over / privacy in their own living units (comparable to similar private rental units in community)</p>	<p>Housing provider offers housing to people with and without disabilities on the same terms (although specific rental subsidies may be available to qualifying individuals based on their special needs)</p> <p>Housing provider is an organization with a mission of serving a particular special needs population – AND – the organization uses funding from (and complies with the applicable requirements of) federal housing programs for people with disabilities or homeless people (e.g. HUD 202, 811, HUD Shelter + Care, etc., as described in Health & Safety Code Sec 1505 (p) and 1569.145 (g))</p> <p>Housing may be privately owned and service provider assists residents in negotiating their own rental agreements with landlords</p> <p>In HUD-funded housing programs quality inspections are performed by local housing authorities based on federal Housing Quality Standards (HQS) criteria</p> <p>Each tenant occupies his/her own private living unit.</p>

Characteristics of supportive housing projects	Most likely to require community care licensing	Likely to require additional scrutiny of specific project and/or clarification of current CCL policy or law	Community Care Licensing is probably <u>not</u> required
Services	<p>Services provided in conjunction with the housing include care and supervision</p> <p><i>Care & Supervision includes:</i></p> <ul style="list-style-type: none"> A. Assistance in dressing, grooming, bathing, personal hygiene B. Assistance with taking medication C. Central storing and/or distribution of medications D. Arrangement of and assistance with medical and dental care E. Maintenance of house rules for the protection of clients F. Supervision of client schedules and activities G. Maintenance and/or supervision of client cash resources or property H. Monitoring food intake or special diets 	<p>Participation in services is mandatory – a condition of occupancy in the housing</p> <p>Participation in money management services - by the organization that operates or sponsors the housing - is mandatory</p> <p>Housing provider or a person / organization connected to the housing provider gives <i>ongoing</i> assistance to residents in obtaining care and supervision and/or medical services. Ongoing assistance could take the form of contracting for / purchasing the services or making ongoing arrangements on behalf of individual residents.</p>	<p>Participation in services (on-site or off-site) is optional – not a condition of occupancy in the housing</p> <p>Supportive services are available to facilitate independent living, including social/ recreational activities, case management, counseling on activities of daily living, counseling on self-management of mental health symptoms or substance use problems, service referrals, etc.</p> <p>If care and supervision or medical services are needed by some tenants, they may be provided from an appropriately licensed (or otherwise legally operating – e.g. county) clinic or adult day health center, which may offer services off-site or through a home visit program, including services which are made available on a regularly scheduled basis on-site.</p> <p>Housing provider may make a referral but thereafter residents “independently obtain care and supervision or medical services.”</p>

Characteristics of supportive housing projects	Most likely to require community care licensing	Likely to require additional scrutiny of specific project and/or clarification of current CCL policy or law	Community Care Licensing is probably <u>not</u> required
Relationships among housing and service provider and tenants	<p>Housing and care & supervision are provided by the same organization, or by organizations or persons who have organizational or financial connection</p> <p>House rules are established primarily for the protection of residents with special needs</p>	<p>Housing and on-site services are provided by the same organization, or by organizations or persons who have organizational or financial connection</p> <p>Housing is privately owned and master-leased by service provider organization on behalf of residents</p>	<p>Tenants hold a standard lease or rental agreement (including a sub-lease) with the building owner / manager. (Owner may be an organization with a mission of serving a particular target population, but rental agreement terms are comparable to private market.)</p> <p>If services are provided on-site, the service provider(s) and housing provider are not the same organization and do not have organizational or financial connection</p> <p>There is an MOU between housing and service providers – and tenants can access services independently / voluntarily (see above description re: services)</p> <p>House rules are established for the benefit of the housing provider and/or neighbors (e.g. safety and quiet enjoyment by others)</p> <p>If tenants choose whether to access services on-site, off-site, or not at all – there is no impact on tenancy. (There may be service participation rules associated with maintaining eligibility for a housing or income subsidy program not administered by the housing provider.)</p>